

AN ACT

relating to the continuation and operation of the Texas Department of Insurance and the operation of certain insurance programs; imposing administrative penalties.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

ARTICLE 1. GENERAL PROVISIONS

SECTION 1.001. Section 31.002, Insurance Code, is amended to read as follows:

Sec. 31.002. DUTIES OF DEPARTMENT. In addition to the other duties required of the Texas Department of Insurance, the department shall:

- (1) regulate the business of insurance in this state;
- (2) administer the workers' compensation system of this state as provided by Title 5, Labor Code; ~~and~~
- (3) ensure that this code and other laws regarding insurance and insurance companies are executed;
- (4) protect and ensure the fair treatment of consumers; and
- (5) ensure fair competition in the insurance industry in order to foster a competitive market.

SECTION 1.002. Section 31.004(a), Insurance Code, is amended to read as follows:

(a) The Texas Department of Insurance is subject to Chapter 325, Government Code (Texas Sunset Act). Unless continued in

1 existence as provided by that chapter, the department is abolished
2 September 1, 2023 [~~2011~~].

3 SECTION 1.003. Subchapter B, Chapter 36, Insurance Code, is
4 amended by adding Section 36.110 to read as follows:

5 Sec. 36.110. NEGOTIATED RULEMAKING AND ALTERNATIVE DISPUTE
6 RESOLUTION POLICY. (a) The commissioner shall develop and
7 implement a policy to encourage the use of:

8 (1) negotiated rulemaking procedures under Chapter
9 2008, Government Code, for the adoption of department rules; and

10 (2) appropriate alternative dispute resolution
11 procedures under Chapter 2009, Government Code, to assist in the
12 resolution of internal and external disputes under the department's
13 jurisdiction.

14 (b) The department's procedures relating to alternative
15 dispute resolution must conform, to the extent possible, to any
16 model guidelines issued by the State Office of Administrative
17 Hearings for the use of alternative dispute resolution by state
18 agencies.

19 (c) The commissioner shall:

20 (1) coordinate the implementation of the policy
21 adopted under Subsection (a);

22 (2) provide training as needed to implement the
23 procedures for negotiated rulemaking or alternative dispute
24 resolution; and

25 (3) collect data concerning the effectiveness of those
26 procedures.

ARTICLE 2. CERTAIN ADVISORY BOARDS, COMMITTEES, AND COUNCILS AND
RELATED TECHNICAL CORRECTIONS

SECTION 2.001. Chapter 32, Insurance Code, is amended by
adding Subchapter E to read as follows:

SUBCHAPTER E. RULES REGARDING USE OF ADVISORY COMMITTEES

Sec. 32.151. RULEMAKING AUTHORITY. (a) The commissioner shall adopt rules, in compliance with Section 39.003 of this code and Chapter 2110, Government Code, regarding the purpose, structure, and use of advisory committees by the commissioner, the state fire marshal, or department staff, including rules governing an advisory committee's:

- (1) purpose, role, responsibility, and goals;
- (2) size and quorum requirements;
- (3) qualifications for membership, including experience requirements and geographic representation;
- (4) appointment procedures;
- (5) terms of service;
- (6) training requirements; and
- (7) duration.

(b) An advisory committee must be structured and used to advise the commissioner, the state fire marshal, or department staff. An advisory committee may not be responsible for rulemaking or policymaking.

Sec. 32.152. PERIODIC EVALUATION. The commissioner shall by rule establish a process by which the department shall periodically evaluate an advisory committee to ensure its continued necessity. The department may retain or develop committees as

1 appropriate to meet changing needs.

2 Sec. 32.153. COMPLIANCE WITH OPEN MEETINGS ACT. A
3 department advisory committee must comply with Chapter 551,
4 Government Code.

5 SECTION 2.002. Section 843.441, Insurance Code, is
6 transferred to Subchapter L, Chapter 843, Insurance Code,
7 redesignated as Section 843.410, Insurance Code, and amended to
8 read as follows:

9 Sec. 843.410 [~~843.441~~]. ASSESSMENTS. (a) To provide
10 funds for the administrative expenses of the commissioner regarding
11 rehabilitation, liquidation, supervision, conservatorship, or
12 seizure [~~conservation~~] of a [an—impaired] health maintenance
13 organization in this state that is placed under supervision or in
14 conservatorship under Chapter 441 or against which a delinquency
15 proceeding is commenced under Chapter 443 and that is found by the
16 commissioner to have insufficient funds to pay the total amount of
17 health care claims and the administrative [~~, including~~] expenses
18 incurred by the commissioner regarding the rehabilitation,
19 liquidation, supervision, conservatorship, or seizure, the
20 commissioner [~~acting as receiver or by a special deputy receiver,~~
21 ~~the committee, at the commissioner's direction,~~] shall assess each
22 health maintenance organization in the proportion that the gross
23 premiums of the health maintenance organization that were written
24 in this state during the preceding calendar year bear to the
25 aggregate gross premiums that were written in this state by all
26 health maintenance organizations, as found [~~provided to the~~
27 ~~committee by the commissioner~~] after review of annual statements

1 and other reports the commissioner considers necessary.

2 **(b)** ~~[(c)]~~ The commissioner may abate or defer an assessment
3 in whole or in part if, in the opinion of the commissioner, payment
4 of the assessment would endanger the ability of a health
5 maintenance organization to fulfill its contractual obligations.
6 If an assessment is abated or deferred in whole or in part, the
7 amount of the abatement or deferral may be assessed against the
8 remaining health maintenance organizations in a manner consistent
9 with the calculations made by the commissioner under Subsection (a)
10 ~~[basis for assessments provided by the approved plan of operation]~~.

11 **(c)** ~~[(d)]~~ The total of all assessments on a health
12 maintenance organization may not exceed one-fourth of one percent
13 of the health maintenance organization's gross premiums in any one
14 calendar year.

15 **(d)** ~~[(e)]~~ Notwithstanding any other provision of this
16 subchapter, funds derived from an assessment made under this
17 section may not be used for more than 180 consecutive days for the
18 expenses of administering the affairs of a ~~[an impaired]~~ health
19 maintenance organization the surplus of which is impaired and that
20 is ~~[while]~~ in supervision~~[, rehabilitation,]~~ or conservatorship
21 ~~[conservation for more than 150 days]~~. The commissioner
22 ~~[committee]~~ may extend the period during which the commissioner
23 ~~[it]~~ makes assessments for the administrative expenses ~~[of an~~
24 ~~impaired health maintenance organization as it considers~~
25 ~~appropriate]~~.

26 SECTION 2.003. Section 1660.004, Insurance Code, is amended
27 to read as follows:

1 Sec. 1660.004. GENERAL RULEMAKING. The commissioner may
2 adopt rules as necessary to implement this chapter~~[, including~~
3 ~~rules requiring the implementation and provision of the technology~~
4 ~~recommended by the advisory committee]~~.

5 SECTION 2.004. Section 1660.102(b), Insurance Code, is
6 amended to read as follows:

7 (b) The commissioner may consider ~~[the]~~ recommendations ~~[of~~
8 ~~the advisory committee]~~ or any other information provided in
9 response to a department-issued request for information relating to
10 electronic data exchange, including identification card programs,
11 before adopting rules regarding:

12 (1) information to be included on the identification
13 cards;

14 (2) technology to be used to implement the
15 identification card pilot program; and

16 (3) confidentiality and accuracy of the information
17 required to be included on the identification cards.

18 SECTION 2.005. Section 4001.009(a), Insurance Code, is
19 amended to read as follows:

20 (a) As referenced in Section 4001.003(9), a reference to an
21 agent in the following laws includes a subagent without regard to
22 whether a subagent is specifically mentioned:

23 (1) Chapters 281, 402, 421-423, 441, 444, 461-463,
24 ~~[523-]~~ 541-556, 558, 559, ~~[702-]~~ 703, 705, 821, 823-825, 827, 828,
25 844, 963, 1108, 1205-1208 ~~[1205-1209]~~, 1211, 1213, 1214
26 ~~[1211-1214]~~, 1352, 1353, 1357, 1358, 1360-1363, 1369, 1453-1455,
27 1503, 1550, 1801, 1803, 2151-2154, 2201-2203, 2205-2213, 3501,

- 1 3502, 4007, 4102, and 4201-4203;
- 2 (2) Chapter 403, excluding Section 403.002;
- 3 (3) Subchapter A, Chapter 491;
- 4 (4) Subchapter C, Chapter 521;
- 5 (5) Subchapter A, Chapter 557;
- 6 (6) Subchapter B, Chapter 805;
- 7 (7) Subchapters D, E, and F, Chapter 982;
- 8 (8) Subchapter D, Chapter 1103;
- 9 (9) Subchapters B, C, D, and E, Chapter 1204,
- 10 excluding Sections 1204.153 and 1204.154;
- 11 (10) Subchapter B, Chapter 1366;
- 12 (11) Subchapters B, C, and D, Chapter 1367, excluding
- 13 Section 1367.053(c);
- 14 (12) Subchapters A, C, D, E, F, H, and I, Chapter 1451;
- 15 (13) Subchapter B, Chapter 1452;
- 16 (14) Sections 551.004, 841.303, 982.001, 982.002,
- 17 982.004, 982.052, 982.102, 982.103, 982.104, 982.106, 982.107,
- 18 982.108, 982.110, 982.111, 982.112, and 1802.001; and
- 19 (15) Chapter 107, Occupations Code.

20 SECTION 2.006. Section 4102.005, Insurance Code, is amended

21 to read as follows:

22 Sec. 4102.005. CODE OF ETHICS. The commissioner[~~, with~~

23 ~~guidance from the public insurance adjusters examination advisory~~

24 ~~committee,~~] by rule shall adopt:

- 25 (1) a code of ethics for public insurance adjusters
- 26 that fosters the education of public insurance adjusters concerning
- 27 the ethical, legal, and business principles that should govern

1 their conduct;

2 (2) recommendations regarding the solicitation of the
3 adjustment of losses by public insurance adjusters; and

4 (3) any other principles of conduct or procedures that
5 the commissioner considers necessary and reasonable.

6 SECTION 2.007. Section 2154.052(a), Occupations Code, is
7 amended to read as follows:

8 (a) The commissioner:

9 (1) shall administer this chapter through the state
10 fire marshal; and

11 (2) may issue rules to administer this chapter [~~in~~
12 ~~compliance with Section 2154.054~~].

13 SECTION 2.008. The following laws are repealed:

14 (1) Article 3.70-3D(d), Insurance Code, as effective
15 on appropriation in accordance with Section 5, Chapter 1457 (H.B.
16 3021), Acts of the 76th Legislature, Regular Session, 1999;

17 (2) Chapter 523, Insurance Code;

18 (3) Section 524.061, Insurance Code;

19 (4) the heading to Subchapter M, Chapter 843,
20 Insurance Code;

21 (5) Sections 843.435, 843.436, 843.437, 843.438,
22 843.439, and 843.440, Insurance Code;

23 (6) Chapter 1212, Insurance Code;

24 (7) Section 1660.002(2), Insurance Code;

25 (8) Subchapter B, Chapter 1660, Insurance Code;

26 (9) Section 1660.101(c), Insurance Code;

27 (10) Sections 4002.004, 4004.002, 4101.006, and

1 4102.059, Insurance Code;

2 (11) Sections 4201.003(c) and (d), Insurance Code;

3 (12) Subchapter C, Chapter 6001, Insurance Code;

4 (13) Subchapter C, Chapter 6002, Insurance Code;

5 (14) Subchapter C, Chapter 6003, Insurance Code;

6 (15) Section 2154.054, Occupations Code; and

7 (16) Section 2154.055(c), Occupations Code.

8 SECTION 2.009. (a) The following boards, committees,
9 councils, and task forces are abolished on the effective date of
10 this Act:

11 (1) the consumer assistance program for health
12 maintenance organizations advisory committee;

13 (2) the executive committee of the market assistance
14 program for residential property insurance;

15 (3) the TexLink to Health Coverage Program task force;

16 (4) the health maintenance organization solvency
17 surveillance committee;

18 (5) the technical advisory committee on claims
19 processing;

20 (6) the technical advisory committee on electronic
21 data exchange;

22 (7) the examination of license applicants advisory
23 board;

24 (8) the advisory council on continuing education for
25 insurance agents;

26 (9) the insurance adjusters examination advisory
27 board;

(10) the public insurance adjusters examination advisory committee;

(11) the utilization review agents advisory committee;

(12) the fire extinguisher advisory council;

(13) the fire detection and alarm devices advisory council;

(14) the fire protection advisory council; and

(15) the fireworks advisory council.

(b) All powers, duties, obligations, rights, contracts, funds, records, and real or personal property of a board, committee, council, or task force listed under Subsection (a) of this section shall be transferred to the Texas Department of Insurance not later than February 28, 2012.

SECTION 2.010. The changes in law made by this Act by repealing Sections 523.003 and 843.439, Insurance Code, apply only to a cause of action that accrues on or after the effective date of this Act. A cause of action that accrues before the effective date of this Act is governed by the law in effect immediately before that date, and that law is continued in effect for that purpose.

ARTICLE 3. RATE REGULATION

SECTION 3.001. Subchapter F, Chapter 843, Insurance Code, is amended by adding Section 843.2071 to read as follows:

Sec. 843.2071. NOTICE OF INCREASE IN CHARGE FOR COVERAGE.

(a) Not less than 60 days before the date on which an increase in a charge for coverage under this chapter takes effect, a health maintenance organization shall:

1 (1) give to each enrollee under an individual evidence
2 of coverage written notice of the effective date of the increase;
3 and

4 (2) provide the enrollee a table that clearly lists:

5 (A) the actual dollar amount of the charge for
6 coverage on the date of the notice;

7 (B) the actual dollar amount of the charge for
8 coverage after the charge increase; and

9 (C) the percentage change between the amounts
10 described by Paragraphs (A) and (B).

11 (b) The notice required by this section must be based on
12 coverage in effect on the date of the notice.

13 (c) This section may not be construed to prevent a health
14 maintenance organization, at the request of an enrollee, from
15 negotiating a change in benefits or rates after delivery of the
16 notice required by this section.

17 (d) A health maintenance organization may not require an
18 enrollee entitled to notice under this section to respond to the
19 health maintenance organization to renew the coverage or take other
20 action relating to the renewal or extension of the coverage before
21 the 45th day after the date the notice described by Subsection (a)
22 is given.

23 (e) The notice required by this section must include:

24 (1) contact information for the department, including
25 information concerning how to file a complaint with the department;

26 (2) contact information for the Texas Consumer Health
27 Assistance Program, including information concerning how to

1 request from the program consumer protection information or
2 assistance with filing a complaint; and

3 (3) the addresses of Internet websites that provide
4 consumer information related to rate increase justifications,
5 including the websites of the department and the United States
6 Department of Health and Human Services.

7 SECTION 3.002. Subchapter C, Chapter 1201, Insurance Code,
8 is amended by adding Section 1201.109 to read as follows:

9 Sec. 1201.109. NOTICE OF RATE INCREASE. (a) Not less than
10 60 days before the date on which a premium rate increase takes
11 effect on an individual accident and health insurance policy
12 delivered or issued for delivery in this state by an insurer, the
13 insurer shall:

14 (1) give written notice to the insured of the
15 effective date of the increase; and

16 (2) provide the insured a table that clearly lists:

17 (A) the actual dollar amount of the premium on
18 the date of the notice;

19 (B) the actual dollar amount of the premium after
20 the premium rate increase; and

21 (C) the percentage change between the amounts
22 described by Paragraphs (A) and (B).

23 (b) The notice required by this section must be based on
24 coverage in effect on the date of the notice.

25 (c) This section may not be construed to prevent an insurer,
26 at the request of an insured, from negotiating a change in benefits
27 or rates after delivery of the notice required by this section.

1 (d) An insurer may not require an insured entitled to notice
2 under this section to respond to the insurer to renew the policy or
3 take other action relating to the renewal or extension of the policy
4 before the 45th day after the date the notice described by
5 Subsection (a) is given.

6 (e) The notice required by this section must include:

7 (1) contact information for the department, including
8 information concerning how to file a complaint with the department;

9 (2) contact information for the Texas Consumer Health
10 Assistance Program, including information concerning how to
11 request from the program consumer protection information or
12 assistance with filing a complaint; and

13 (3) the addresses of Internet websites that provide
14 consumer information related to rate increase justifications,
15 including the websites of the department and the United States
16 Department of Health and Human Services.

17 SECTION 3.003. Subchapter E, Chapter 1501, Insurance Code,
18 is amended by adding Section 1501.216 to read as follows:

19 Sec. 1501.216. PREMIUM RATES: NOTICE OF INCREASE. (a) Not
20 less than 60 days before the date on which a premium rate increase
21 takes effect on a small employer health benefit plan delivered or
22 issued for delivery in this state by an insurer, the insurer shall:

23 (1) give written notice to the small employer of the
24 effective date of the increase; and

25 (2) provide the small employer a table that clearly
26 lists:

27 (A) the actual dollar amount of the premium on

1 the date of the notice;

2 (B) the actual dollar amount of the premium after
3 the premium rate increase; and

4 (C) the percentage change between the amounts
5 described by Paragraphs (A) and (B).

6 (b) The notice required by this section must be based on
7 coverage in effect on the date of the notice.

8 (c) This section may not be construed to prevent an insurer,
9 at the request of a small employer, from negotiating a change in
10 benefits or rates after delivery of the notice required by this
11 section.

12 (d) An insurer may not require a small employer entitled to
13 notice under this section to respond to the insurer to renew the
14 policy or take other action relating to the renewal or extension of
15 the policy before the 45th day after the date the notice described
16 by Subsection (a) is given.

17 (e) The notice required by this section must include:

18 (1) contact information for the department, including
19 information concerning how to file a complaint with the department;

20 (2) contact information for the Texas Consumer Health
21 Assistance Program, including information concerning how to
22 request from the program consumer protection information or
23 assistance with filing a complaint; and

24 (3) the addresses of Internet websites that provide
25 consumer information related to rate increase justifications,
26 including the websites of the department and the United States
27 Department of Health and Human Services.

SECTION 3.004. Section 2251.002(8), Insurance Code, is amended to read as follows:

(8) "Supporting information" means:

(A) the experience and judgment of the filer and the experience or information of other insurers or advisory organizations on which the filer relied;

(B) the interpretation of any other information on which the filer relied;

(C) a description of methods used in making a rate; and

(D) any other information the department receives from a filer as a response to a request under Section 38.001 [~~requires to be filed~~].

SECTION 3.005. Section 2251.101, Insurance Code, is amended to read as follows:

Sec. 2251.101. RATE FILINGS AND SUPPORTING INFORMATION.

(a) Except as provided by Subchapter D, for risks written in this state, each insurer shall file with the commissioner all rates, applicable rating manuals, supplementary rating information, and additional information as required by the commissioner. An insurer may use a rate filed under this subchapter on and after the date the rate is filed.

(b) The commissioner by rule shall:

(1) determine the information required to be included in the filing, including:

(A) [~~41~~] categories of supporting information and supplementary rating information;

1 (B) [~~2~~] statistics or other information to
2 support the rates to be used by the insurer, including information
3 necessary to evidence that the computation of the rate does not
4 include disallowed expenses; and

5 (C) [~~3~~] information concerning policy fees,
6 service fees, and other fees that are charged or collected by the
7 insurer under Section 550.001 or 4005.003; and

8 (2) prescribe the process through which the department
9 requests supplementary rating information and supporting
10 information under this section, including:

11 (A) the number of times the department may make a
12 request for information; and

13 (B) the types of information the department may
14 request when reviewing a rate filing.

15 SECTION 3.006. Section 2251.103, Insurance Code, is amended
16 to read as follows:

17 Sec. 2251.103. COMMISSIONER ACTION CONCERNING ~~[DISAPPROVAL~~
18 ~~OF RATE IN]~~ RATE FILING NOT YET IN EFFECT; HEARING AND ANALYSIS.

19 (a) Not later than the earlier of the date the rate takes effect or
20 the 30th day after the date a rate is filed with the department
21 under Section 2251.101, the [The] commissioner shall disapprove the
22 [a] rate if the commissioner determines that the rate [filing made
23 under this chapter] does not comply with the requirements of this
24 chapter [meet the standards established under Subchapter B].

25 (b) Except as provided by Subsection (c), if a rate has not
26 been disapproved by the commissioner before the expiration of the
27 30-day period described by Subsection (a), the rate is not

1 considered disapproved under this section.

2 (c) For good cause, the commissioner may, on the expiration
3 of the 30-day period described by Subsection (a), extend the period
4 for disapproval of a rate for one additional 30-day period. The
5 commissioner and the insurer may not by agreement extend the 30-day
6 period described by Subsection (a) or this subsection.

7 (d) If the commissioner disapproves a rate under this
8 section [filing], the commissioner shall issue an order specifying
9 in what respects the rate [filing] fails to meet the requirements of
10 this chapter.

11 (e) An insurer that files a rate that is disapproved under
12 this section [(e) The filer] is entitled to a hearing on written
13 request made to the commissioner not later than the 30th day after
14 the date the order disapproving the rate [filing] takes effect.

15 (f) The department shall track, compile, and routinely
16 analyze the factors that contribute to the disapproval of rates
17 under this section.

18 SECTION 3.007. Subchapter C, Chapter 2251, Insurance Code,
19 is amended by adding Section 2251.1031 to read as follows:

20 Sec. 2251.1031. REQUESTS FOR ADDITIONAL INFORMATION.

21 (a) If the department determines that the information filed by an
22 insurer under this subchapter or Subchapter D is incomplete or
23 otherwise deficient, the department may request additional
24 information from the insurer.

25 (b) If the department requests additional information from
26 the insurer during the 30-day period described by Section
27 2251.103(a) or 2251.153(a) or under a second 30-day period

1 described by Section 2251.103(c) or 2251.153(c), as applicable, the
2 time between the date the department submits the request to the
3 insurer and the date the department receives the information
4 requested is not included in the computation of the first 30-day
5 period or the second 30-day period, as applicable.

6 (c) For purposes of this section, the date of the
7 department's submission of a request for additional information is
8 the earlier of:

9 (1) the date of the department's electronic mailing or
10 documented telephone call relating to the request for additional
11 information; or

12 (2) the postmarked date on the department's letter
13 relating to the request for additional information.

14 (d) The department shall track, compile, and routinely
15 analyze the volume and content of requests for additional
16 information made under this section to ensure that all requests for
17 additional information are fair and reasonable.

18 SECTION 3.008. The heading to Section 2251.104, Insurance
19 Code, is amended to read as follows:

20 Sec. 2251.104. COMMISSIONER DISAPPROVAL OF RATE IN EFFECT;
21 HEARING.

22 SECTION 3.009. Section 2251.107, Insurance Code, is amended
23 to read as follows:

24 Sec. 2251.107. PUBLIC [~~INSPECTION OF~~] INFORMATION. (a)
25 Each filing made, and any supporting information filed, under this
26 chapter is public information subject to Chapter 552, Government
27 Code, including any applicable exception from required disclosure

1 under that chapter ~~[open to public inspection as of the date of the~~
2 ~~filing]~~.

3 (b) Each year the department shall make available to the
4 public information concerning the department's general process and
5 methodology for rate review under this chapter, including factors
6 that contribute to the disapproval of a rate. Information provided
7 under this subsection must be general in nature and may not reveal
8 proprietary or trade secret information of any insurer.

9 SECTION 3.010. Section 2251.151, Insurance Code, is amended
10 by adding Subsections (c-1) and (f) and amending Subsection (e) to
11 read as follows:

12 (c-1) If the commissioner requires an insurer to file the
13 insurer's rates under this section, the commissioner shall
14 periodically assess whether the conditions described by Subsection
15 (a) continue to exist. If the commissioner determines that the
16 conditions no longer exist, the commissioner shall issue an order
17 excusing the insurer from filing the insurer's rates under this
18 section.

19 (e) If the commissioner requires an insurer to file the
20 insurer's rates under this section, the commissioner shall issue an
21 order specifying the commissioner's reasons for requiring the rate
22 filing and explaining any steps the insurer must take and any
23 conditions the insurer must meet in order to be excused from filing
24 the insurer's rates under this section. An affected insurer is
25 entitled to a hearing on written request made to the commissioner
26 not later than the 30th day after the date the order is issued.

27 (f) The commissioner by rule shall define:

1 (1) the financial conditions and rating practices that
2 may subject an insurer to this section under Subsection (a)(1); and
3 (2) the process by which the commissioner determines
4 that a statewide insurance emergency exists under Subsection
5 (a)(2).

6 SECTION 3.011. Section 2251.156, Insurance Code, is amended
7 to read as follows:

8 Sec. 2251.156. RATE FILING DISAPPROVAL BY COMMISSIONER;
9 HEARING. (a) If the commissioner disapproves a rate filing under
10 Section 2251.153(a)(2), the commissioner shall issue an order
11 disapproving the filing in accordance with Section 2251.103(d)
12 ~~[2251.103(b)]~~.

13 (b) An insurer whose rate filing is disapproved is entitled
14 to a hearing in accordance with Section 2251.103(e) ~~[2251.103(e)]~~.

15 (c) The department shall track precedents related to
16 disapprovals of rates under this subchapter to ensure uniform
17 application of rate standards by the department.

18 SECTION 3.012. Section 2254.003(a), Insurance Code, is
19 amended to read as follows:

20 (a) This section applies to a rate for personal automobile
21 insurance or residential property insurance filed on or after the
22 effective date of Chapter 206, Acts of the 78th Legislature,
23 Regular Session, 2003.

24 SECTION 3.013. Section 2251.154, Insurance Code, is
25 repealed.

26 SECTION 3.014. Sections 2251.002(8) and 2251.107,
27 Insurance Code, as amended by this Act, apply only to a request to

1 inspect information or to obtain public information made to the
2 Texas Department of Insurance on or after the effective date of this
3 Act. A request made before the effective date of this Act is
4 governed by the law in effect immediately before the effective date
5 of this Act, and the former law is continued in effect for that
6 purpose.

7 SECTION 3.015. Section 2251.103, Insurance Code, as amended
8 by this Act, and Section 2251.1031, Insurance Code, as added by this
9 Act, apply only to a rate filing made on or after the effective date
10 of this Act. A rate filing made before the effective date of this
11 Act is governed by the law in effect at the time the filing was made,
12 and that law is continued in effect for that purpose.

13 SECTION 3.016. Section 2251.151(c-1), Insurance Code, as
14 added by this Act, applies to an insurer that is required to file
15 the insurer's rates for approval under Section 2251.151, Insurance
16 Code, on or after the effective date of this Act, regardless of when
17 the order requiring the insurer to file the insurer's rates for
18 approval under that section is first issued.

19 SECTION 3.017. Section 2251.151(e), Insurance Code, as
20 amended by this Act, applies only to an order issued by the
21 commissioner of insurance on or after the effective date of this
22 Act. An order of the commissioner issued before the effective date
23 of this Act is governed by the law in effect on the date the order
24 was issued, and that law is continued in effect for that purpose.

25 ARTICLE 4. STATE FIRE MARSHAL'S OFFICE

26 SECTION 4.001. Section 417.008, Government Code, is amended
27 by adding Subsection (f) to read as follows:

1 (f) The commissioner by rule shall prescribe a reasonable
2 fee for an inspection performed by the state fire marshal that may
3 be charged to a property owner or occupant who requests the
4 inspection, as the commissioner considers appropriate. In
5 prescribing the fee, the commissioner shall consider the overall
6 cost to the state fire marshal to perform the inspections,
7 including the approximate amount of time the staff of the state fire
8 marshal needs to perform an inspection, travel costs, and other
9 expenses.

10 SECTION 4.002. Section 417.0081, Government Code, is
11 amended to read as follows:

12 Sec. 417.0081. INSPECTION OF CERTAIN STATE-OWNED OR
13 STATE-LEASED BUILDINGS. (a) The state fire marshal, at the
14 commissioner's direction, shall periodically inspect public
15 buildings under the charge and control of the Texas Facilities
16 [General Services] Commission and buildings leased for the use of a
17 state agency by the Texas Facilities Commission.

18 (b) For the purpose of determining a schedule for conducting
19 inspections under this section, the commissioner by rule shall
20 adopt guidelines for assigning potential fire safety risk to
21 state-owned and state-leased buildings. Rules adopted under this
22 subsection must provide for the inspection of each state-owned and
23 state-leased building to which this section applies, regardless of
24 how low the potential fire safety risk of the building may be.

25 (c) On or before January 1 of each year, the state fire
26 marshal shall report to the governor, lieutenant governor, speaker
27 of the house of representatives, and appropriate standing

1 committees of the legislature regarding the state fire marshal's
2 findings in conducting inspections under this section.

3 SECTION 4.003. Section 417.0082, Government Code, is
4 amended to read as follows:

5 Sec. 417.0082. PROTECTION OF CERTAIN STATE-OWNED OR
6 STATE-LEASED BUILDINGS AGAINST FIRE HAZARDS. (a) The state fire
7 marshal, under the direction of the commissioner, shall take any
8 action necessary to protect a public building under the charge and
9 control of the Texas Facilities [~~Building and Procurement~~]
10 Commission, and the building's occupants, and the occupants of a
11 building leased for the use of a state agency by the Texas
12 Facilities Commission, against an existing or threatened fire
13 hazard. The state fire marshal and the Texas Facilities [~~Building~~
14 ~~and Procurement~~] Commission shall include the State Office of Risk
15 Management in all communication concerning fire hazards.

16 (b) The commissioner, the Texas Facilities [~~Building and~~
17 ~~Procurement~~] Commission, and the risk management board shall make
18 and each adopt by rule a memorandum of understanding that
19 coordinates the agency's duties under this section.

20 SECTION 4.004. Section 417.010, Government Code, is amended
21 to read as follows:

22 Sec. 417.010. DISCIPLINARY AND ENFORCEMENT ACTIONS;
23 ADMINISTRATIVE PENALTIES [~~ALTERNATE REMEDIES~~]. (a) This section
24 applies to each person and firm licensed, registered, or otherwise
25 regulated by the department through the state fire marshal,
26 including:

27 (1) a person regulated under Title 20, Insurance Code;

1 and

2 (2) a person licensed under Chapter 2154, Occupations
3 Code.

4 (b) The commissioner by rule shall delegate to the state
5 fire marshal the authority to take disciplinary and enforcement
6 actions, including the imposition of administrative penalties in
7 accordance with this section on a person regulated under a law
8 listed under Subsection (a) who violates that law or a rule or order
9 adopted under that law. In the rules adopted under this subsection,
10 the commissioner shall:

11 (1) specify which types of disciplinary and
12 enforcement actions are delegated to the state fire marshal; and

13 (2) outline the process through which the state fire
14 marshal may, subject to Subsection (e), impose administrative
15 penalties or take other disciplinary and enforcement actions.

16 (c) The commissioner by rule shall adopt a schedule of
17 administrative penalties for violations subject to a penalty under
18 this section to ensure that the amount of an administrative penalty
19 imposed is appropriate to the violation. The department shall
20 provide the administrative penalty schedule to the public on
21 request. The amount of an administrative penalty imposed under
22 this section must be based on:

23 (1) the seriousness of the violation, including:

24 (A) the nature, circumstances, extent, and
25 gravity of the violation; and

26 (B) the hazard or potential hazard created to the
27 health, safety, or economic welfare of the public;

1 (2) the economic harm to the public interest or public
2 confidence caused by the violation;

3 (3) the history of previous violations;

4 (4) the amount necessary to deter a future violation;

5 (5) efforts to correct the violation;

6 (6) whether the violation was intentional; and

7 (7) any other matter that justice may require.

8 (d) In [The state fire marshal, in] the enforcement of a law
9 that is enforced by or through the state fire marshal, the state
10 fire marshal may, in lieu of cancelling, revoking, or suspending a
11 license or certificate of registration, impose on the holder of the
12 license or certificate of registration an order directing the
13 holder to do one or more of the following:

14 (1) cease and desist from a specified activity;

15 (2) pay an administrative penalty imposed under this
16 section [remit to the commissioner within a specified time a
17 monetary forfeiture not to exceed \$10,000 for each violation of an
18 applicable law or rule]; or [and]

19 (3) make restitution to a person harmed by the holder's
20 violation of an applicable law or rule.

21 (e) The state fire marshal shall impose an administrative
22 penalty under this section in the manner prescribed for imposition
23 of an administrative penalty under Subchapter B, Chapter 84,
24 Insurance Code. The state fire marshal may impose an
25 administrative penalty under this section without referring the
26 violation to the department for commissioner action.

27 (f) An affected person may dispute the imposition of the

1 penalty or the amount of the penalty imposed in the manner
2 prescribed by Subchapter C, Chapter 84, Insurance Code. Failure to
3 pay an administrative penalty imposed under this section is subject
4 to enforcement by the department.

5 ARTICLE 5. TITLE INSURANCE

6 SECTION 5.001. Section 2703.153(c), Insurance Code, is
7 amended to read as follows:

8 (c) Not less frequently than once every five years, the
9 commissioner shall evaluate the information required under this
10 section to determine whether the department needs additional or
11 different information or no longer needs certain information to
12 promulgate rates. If the department requires a title insurance
13 company or title insurance agent to include new or different
14 information in the statistical report, that information may be
15 considered by the commissioner in fixing premium rates if the
16 information collected is reasonably credible for the purposes for
17 which the information is to be used.

18 ARTICLE 6. ELECTRONIC TRANSACTIONS

19 SECTION 6.001. Subtitle A, Title 2, Insurance Code, is
20 amended by adding Chapter 35 to read as follows:

21 CHAPTER 35. ELECTRONIC TRANSACTIONS

22 Sec. 35.001. DEFINITIONS. In this chapter:

23 (1) "Conduct business" includes engaging in or
24 transacting any business in which a regulated entity is authorized
25 to engage or is authorized to transact under the law of this state.

26 (2) "Regulated entity" means each insurer or other
27 organization regulated by the department, including:

1 (A) a domestic or foreign, stock or mutual, life,
2 health, or accident insurance company;

3 (B) a domestic or foreign, stock or mutual, fire
4 or casualty insurance company;

5 (C) a Mexican casualty company;

6 (D) a domestic or foreign Lloyd's plan;

7 (E) a domestic or foreign reciprocal or
8 interinsurance exchange;

9 (F) a domestic or foreign fraternal benefit
10 society;

11 (G) a domestic or foreign title insurance
12 company;

13 (H) an attorney's title insurance company;

14 (I) a stipulated premium company;

15 (J) a nonprofit legal service corporation;

16 (K) a health maintenance organization;

17 (L) a statewide mutual assessment company;

18 (M) a local mutual aid association;

19 (N) a local mutual burial association;

20 (O) an association exempt under Section 887.102;

21 (P) a nonprofit hospital, medical, or dental
22 service corporation, including a company subject to Chapter 842;

23 (Q) a county mutual insurance company; and

24 (R) a farm mutual insurance company.

25 Sec. 35.002. CONSTRUCTION WITH OTHER LAW.

26 (a) Notwithstanding any other provision of this code, a regulated
27 entity may conduct business electronically in accordance with this

1 chapter and the rules adopted under Section 35.004.

2 (b) To the extent of any conflict between another provision
3 of this code and a provision of this chapter, the provision of this
4 chapter controls.

5 Sec. 35.003. ELECTRONIC TRANSACTIONS AUTHORIZED. A
6 regulated entity may conduct business electronically to the same
7 extent that the entity is authorized to conduct business otherwise
8 if before the conduct of business each party to the business agrees
9 to conduct the business electronically.

10 Sec. 35.004. RULES. (a) The commissioner shall adopt
11 rules necessary to implement and enforce this chapter.

12 (b) The rules adopted by the commissioner under this section
13 must include rules that establish minimum standards with which a
14 regulated entity must comply in the entity's electronic conduct of
15 business with other regulated entities and consumers.

16 SECTION 6.002. Chapter 35, Insurance Code, as added by this
17 Act, applies only to business conducted on or after the effective
18 date of this Act. Business conducted before the effective date of
19 this Act is governed by the law in effect on the date the business
20 was conducted, and that law is continued in effect for that purpose.

21 ARTICLE 7. DATA COLLECTION

22 SECTION 7.001. Chapter 38, Insurance Code, is amended by
23 adding Subchapter I to read as follows:

24 SUBCHAPTER I. DATA COLLECTION RELATING TO
25 CERTAIN PERSONAL LINES OF INSURANCE

26 Sec. 38.401. APPLICABILITY OF SUBCHAPTER. This subchapter
27 applies only to an insurer who writes personal automobile insurance

1 or residential property insurance in this state.

2 Sec. 38.402. FILING OF CERTAIN CLAIMS INFORMATION.

3 (a) The commissioner shall require each insurer described by
4 Section 38.401 to file with the commissioner aggregate personal
5 automobile insurance and residential property insurance claims
6 information for the period covered by the filing, including the
7 number of claims:

8 (1) filed during the reporting period;

9 (2) pending on the last day of the reporting period,
10 including pending litigation;

11 (3) closed with payment during the reporting period;

12 (4) closed without payment during the reporting
13 period; and

14 (5) carrying over from the reporting period
15 immediately preceding the current reporting period.

16 (b) An insurer described by Section 38.401 must file the
17 information described by Subsection (a) on an annual basis. The
18 information filed must be broken down by quarter.

19 Sec. 38.403. PUBLIC INFORMATION. (a) The department shall
20 post the data contained in claims information filings under Section
21 38.402 on the department's Internet website. The commissioner by
22 rule may establish a procedure for posting data under this
23 subsection that includes a description of the data that must be
24 posted and the manner in which the data must be posted.

25 (b) Information provided under this section must be
26 aggregate data by line of insurance for each insurer and may not
27 reveal proprietary or trade secret information of any insurer.

1 Sec. 38.404. RULES. The commissioner may adopt rules
2 necessary to implement this subchapter.

3 ARTICLE 8. STUDY ON RATE FILING AND APPROVAL
4 REQUIREMENTS FOR CERTAIN INSURERS WRITING IN
5 UNDERSERVED AREAS; UNDERSERVED AREA DESIGNATION

6 SECTION 8.001. Section 2004.002, Insurance Code, is amended
7 by amending Subsection (b) and adding Subsections (c) and (d) to
8 read as follows:

9 (b) In determining which areas to designate as underserved,
10 the commissioner shall consider:

11 (1) whether residential property insurance is not
12 reasonably available to a substantial number of owners of insurable
13 property in the area; ~~and~~

14 (2) whether access to the full range of coverages and
15 policy forms for residential property insurance does not reasonably
16 exist; and

17 (3) any other relevant factor as determined by the
18 commissioner.

19 (c) The commissioner shall determine which areas to
20 designate as underserved under this section not less than once
21 every six years.

22 (d) The commissioner shall conduct a study concerning the
23 accuracy of current designations of underserved areas under this
24 section for the purpose of increasing and improving access to
25 insurance in those areas not less than once every six years.

26 SECTION 8.002. Subchapter F, Chapter 2251, Insurance Code,
27 is amended by adding Section 2251.253 to read as follows:

1 Sec. 2251.253. REPORT. (a) The commissioner shall conduct
2 a study concerning the impact of increasing the percentage of the
3 total amount of premiums collected by insurers for residential
4 property insurance under Section 2251.252.

5 (b) The commissioner shall report the results of the study
6 in the biennial report required under Section 32.022.

7 (c) This section expires September 1, 2013.

8 ARTICLE 9. INDIVIDUAL HEALTH COVERAGE FOR CHILDREN

9 SECTION 9.001. Section 1502.002, Insurance Code, is amended
10 to read as follows:

11 Sec. 1502.002. RULES. (a) The commissioner may adopt rules
12 to implement this chapter, including rules necessary to:

13 (1) increase the availability of coverage to children
14 younger than 19 years of age;

15 (2) establish an open enrollment period; and

16 (3) establish qualifying events as exceptions to the
17 open enrollment period, including loss of coverage when a child
18 becomes ineligible for coverage under the state child health plan.

19 (b) The commissioner may adopt rules on an emergency basis
20 using the procedures established under Section 2001.034,
21 Government Code.

22 (c) Notwithstanding Subsection (b), the commissioner is not
23 required to make a finding under Section 2001.034(a), Government
24 Code, before adopting rules on an emergency basis.

25 ARTICLE 10. ADJUSTER ADVISORY BOARD

26 SECTION 10.001. (a) The adjuster advisory board
27 established under this section is composed of the following nine

1 members appointed by the commissioner:

2 (1) two public insurance adjusters;

3 (2) two members who represent the general public;

4 (3) two independent adjusters;

5 (4) one adjuster who represents a domestic insurer
6 authorized to engage in business in this state;

7 (5) one adjuster who represents a foreign insurer
8 authorized to engage in business in this state; and

9 (6) one representative of the Independent Insurance
10 Agents of Texas.

11 (b) A member who represents the general public may not be:

12 (1) an officer, director, or employee of:

13 (A) an adjuster or adjusting company;

14 (B) an insurance agent or agency;

15 (C) an insurance broker;

16 (D) an insurer; or

17 (E) any other business entity regulated by the
18 department;

19 (2) a person required to register as a lobbyist under
20 Chapter 305, Government Code; or

21 (3) a person related within the second degree of
22 affinity or consanguinity to a person described by Subdivision (1)
23 or (2).

24 (c) The advisory board shall make recommendations to the
25 commissioner regarding:

26 (1) matters related to the licensing, testing, and
27 continuing education of licensed adjusters;

(2) matters related to claims handling, catastrophic loss preparedness, ethical guidelines, and other professionally relevant issues; and

(3) any other matter the commissioner submits to the advisory board for a recommendation.

(d) A member of the advisory board serves without compensation. If authorized by the commissioner, a member is entitled to reimbursement for reasonable expenses incurred in attending meetings of the advisory board.

(e) The advisory board is subject to Chapter 2110, Government Code.

ARTICLE 11. LIMITED PROPERTY AND CASUALTY INSURANCE LICENSES

SECTION 11.001. Section 4051.101(c), Insurance Code, is amended to read as follows:

(c) This section does not apply to a person who wrote for the previous calendar year:

(1) policies authorized by Chapter 911 for a farm mutual insurance company that generated, in the aggregate, less than \$50,000 in direct premium; ~~or~~

(2) industrial fire insurance policies that generated, in the aggregate, less than \$20,000 in direct premium; or

(3) policies authorized by Chapter 962 for an insurer that generated, in the aggregate, less than \$40,000 in direct premium.

ARTICLE 12. PROHIBITION OF COERCION OF PRACTITIONERS BY MANAGED CARE PLANS

SECTION 12.001. Section 1451.153, Insurance Code, is amended by amending Subsection (a) and adding Subsection (c) to read as follows:

(a) A managed care plan may not:

(1) discriminate against a health care practitioner because the practitioner is an optometrist, therapeutic optometrist, or ophthalmologist;

(2) restrict or discourage a plan participant from obtaining covered vision or medical eye care services or procedures from a participating optometrist, therapeutic optometrist, or ophthalmologist solely because the practitioner is an optometrist, therapeutic optometrist, or ophthalmologist;

(3) exclude an optometrist, therapeutic optometrist, or ophthalmologist as a participating practitioner in the plan because the optometrist, therapeutic optometrist, or ophthalmologist does not have medical staff privileges at a hospital or at a particular hospital; ~~[or]~~

(4) exclude an optometrist, therapeutic optometrist, or ophthalmologist as a participating practitioner in the plan because the services or procedures provided by the optometrist, therapeutic optometrist, or ophthalmologist may be provided by another type of health care practitioner; or

(5) as a condition for a therapeutic optometrist or ophthalmologist to be included in one or more of the plan's medical panels, require the therapeutic optometrist or ophthalmologist to be included in, or to accept the terms of payment under or for, a particular vision panel in which the therapeutic optometrist or

1 ophthalmologist does not otherwise wish to be included.

2 (c) For the purposes of Subsection (a)(5), "medical panel"
3 and "vision panel" have the meanings assigned by Section
4 1451.154(a).

5 SECTION 12.002. The change in law made by Section 12.001 of
6 this Act applies only to a contract entered into or renewed by a
7 therapeutic optometrist or ophthalmologist and an issuer of a
8 managed care plan on or after January 1, 2012. A contract entered
9 into or renewed before January 1, 2012, is governed by the law in
10 effect immediately before the effective date of this Act, and that
11 law is continued in effect for that purpose.

12 ARTICLE 13. CLAIMS REPORTING BY INSURERS

13 SECTION 13.001. Subtitle C, Title 5, Insurance Code, is
14 amended by adding Chapter 563 to read as follows:

15 CHAPTER 563. PRACTICES RELATING TO CLAIMS REPORTING

16 Sec. 563.001. DEFINITIONS. In this chapter:

17 (1) "Claims database" means a database used by
18 insurers to share, among insurers, insureds' claims histories or
19 damage reports concerning covered properties.

20 (2) "Insurer," "personal automobile insurance," and
21 "residential property insurance" have the meanings assigned by
22 Section 2254.001.

23 Sec. 563.002. REPORTING TO CLAIMS DATABASE. An insurer or
24 an insurer's agent may not report to a claims database information
25 regarding an inquiry by an insured regarding coverage provided
26 under a personal automobile insurance policy or a residential
27 property insurance policy unless and until the insured files a

1 claim under the policy.

2 ARTICLE 14. SURETY BONDS AND RELATED INSTRUMENTS

3 SECTION 14.001. Section 3503.005(a), Insurance Code, is
4 amended to read as follows:

5 (a) A bond that is made, given, tendered, or filed under
6 Chapter 53, Property Code, or Chapter 2253, Government Code, may be
7 executed only by a surety company that is authorized to write surety
8 bonds in this state. If the amount of the bond exceeds \$100,000,
9 the surety company must also:

10 (1) hold a certificate of authority from the United
11 States secretary of the treasury to qualify as a surety on
12 obligations permitted or required under federal law; or

13 (2) have obtained reinsurance for any liability in
14 excess of \$1 million [~~\$100,000~~] from a reinsurer that:

15 (A) is an authorized reinsurer in this state; or
16 [~~and~~]

17 (B) holds a certificate of authority from the
18 United States secretary of the treasury to qualify as a surety or
19 reinsurer on obligations permitted or required under federal law.

20 SECTION 14.002. Section 3503.004(b), Insurance Code, is
21 repealed.

22 ARTICLE 15. RESIDENTIAL FIRE ALARM TECHNICIANS

23 SECTION 15.001. Section 6002.158(e), Insurance Code, is
24 amended to read as follows:

25 (e) The curriculum for a residential fire alarm technician
26 course must consist of at least seven [~~eight~~] hours of instruction
27 on installing, servicing, and maintaining single-family and

1 two-family residential fire alarm systems as defined by National
2 Fire Protection Standard No. 72 and an examination on National Fire
3 Protection Standard No. 72 for which at least one hour is allocated
4 for completion. The examination must consist of at least 25
5 questions, and an applicant must accurately answer at least 80
6 percent of the questions to pass the examination.

7 SECTION 15.002. The changes in law made by this Act to
8 Section 6002.158, Insurance Code, apply only to an application for
9 approval or renewal of approval of a training school submitted to
10 the state fire marshal on or after the effective date of this Act.
11 An application submitted before the effective date of this Act is
12 governed by the law in effect immediately before the effective date
13 of this Act, and that law is continued in effect for that purpose.

14 ARTICLE 16. TRANSITION; EFFECTIVE DATE

15 SECTION 16.001. Except as otherwise provided by this Act,
16 this Act applies only to an insurance policy, contract, or evidence
17 of coverage that is delivered, issued for delivery, or renewed on or
18 after January 1, 2012. A policy, contract, or evidence of coverage
19 delivered, issued for delivery, or renewed before January 1, 2012,
20 is governed by the law as it existed immediately before the
21 effective date of this Act, and that law is continued in effect for
22 that purpose.

23 SECTION 16.002. This Act takes effect September 1, 2011.

David Dewhurst

President of the Senate

Joe Straus

Speaker of the House

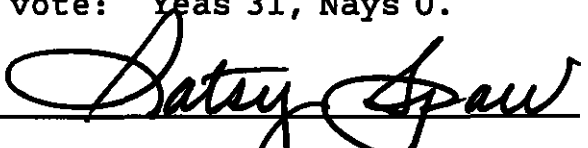
I certify that H.B. No. 1951 was passed by the House on May 11, 2011, by the following vote: Yeas 101, Nays 40, 4 present, not voting; that the House refused to concur in Senate amendments to H.B. No. 1951 on May 23, 2011, and requested the appointment of a conference committee to consider the differences between the two houses; and that the House adopted the conference committee report on H.B. No. 1951 on May 28, 2011, by the following vote: Yeas 143, Nays 5, 2 present, not voting.

Robert Hanes

Chief Clerk of the House

H.B. No. 1951

I certify that H.B. No. 1951 was passed by the Senate, with amendments, on May 20, 2011, by the following vote: Yeas 30, Nays 0; at the request of the House, the Senate appointed a conference committee to consider the differences between the two houses; and that the Senate adopted the conference committee report on H.B. No. 1951 on May 28, 2011, by the following vote: Yeas 31, Nays 0.

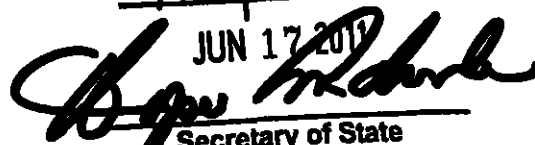

Secretary of the Senate

APPROVED: 17 JUN '11

Date


Governor

FILED IN THE OFFICE OF THE
SECRETARY OF STATE
4:00 pm O'CLOCK

JUN 17 2011

Secretary of State